

Notice of Allowability

Application No.

10/735,939

Applicant(s)

FINN, GREGORY M.

Examiner

Henry J. Recla

Art Unit

3700

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/1/2006.
2. ☒ The allowed claim(s) is/are 24-43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 12/1/06.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The most pertinent references found during this examination are: USPN 5,941,802 (Kiser); USPN 6,059,696 (Bohmer et al.) and USPN 6,575,876 (Phelps-McMillon).

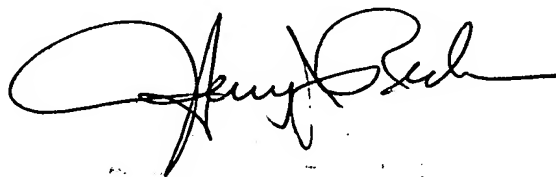
The claims patentably distinguish over the Kiser device in USPN 5,941,802 by defining "a non-rigid, U-shaped sling adapted to receive therein the frontal lower leg between the ankle and the knee of the user". Although the Kiser device includes foot sling (11), it is not capable of receiving the frontal lower leg as claimed.

The claims patentably distinguish over the Bohmer et al. and Phelps-McMillon devices for the following reasons:

The claims require an overhead chin-up bar enabling the exerciser to execute standard full bodyweight chin-ups" and "a chin-up assist apparatus". The Bohmer et al. reference was considered for its structure illustrated in figures 3 or 6; and the Phelps-McMillon reference was considered for its structure illustrated in figure 2. Such structures were considered for their capability of use with an overhead chin-up bar to perform the intended functions claimed. However, such was discounted in that it would be speculative that elastic members 22 and 23 or 32 and 33 on Bohmer et al., or elastic members 30 on Phelps-McMillon could provide "an elastic resistance to create an upward force during performance of the chin/pull up to offset a portion of an exerciser's body weight and thereby assist the exerciser in performing the chin/pull-up" as claimed. Thus, the elastic properties of the claimed device of the instant application are not

"necessarily present" in the elastic members of the Bohmer et al. or Phelps-McMillon as required to develop a prima facie case of anticipation. See MPEP §2112.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in black ink, appearing to read "Henry Bech". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.